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REMARKS

Reconsideration and allowance of this application, as amended, is respectfully requested.

This Amendment is in response to the Office Action dated November 1, 2004. With regard to this, it is noted that a Request for Clarification of Office Action has been duly filed in this matter on January 14, 2005 in order to clarify a question of which reference is being relied on in the rejections of the application. In particular, as noted in the Request for Clarification of Office Action, although the rejection in paragraph 3 on page 2 of the Office Action states that the claims are unpatentable over Cox (USP 6567382), the actual body of the discussion of the reference concerns the Galand document. Inasmuch as a response has not yet been received to the Request for Clarification, Applicants are assuming for purposes of this discussion that the actual 35 U.S.C. § 103 rejection set forth in paragraph 3 on page 2 of the Office Action was intended to refer to U.S. Patent 6,188,698 to Galand. Accordingly, the following comments are based on this assumption. If this is not correct, it is respectfully requested that a new, non-final, Office Action be issued to clarify this matter (or a Notice of Allowance based upon the following comments).

Reconsideration and removal of the rejection of claims 1-27 over the references to Galand and Pashtan (USP 6,542,466) is respectfully requested. By the present Amendment, each of the amended claims has been amended to specifically define a combination of features, both from a method and network format. Referring to independent claim 1, for example, in addition to defining the features that an operating condition at a first router is determined and then propagated to a second router, the claim now further defines:

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"adjusting at least one parameter of constraint of incoming traffic flow based on said indication."

Claim 10 has similarly been amended to define that the indication of the operating condition at the second router is received at the first router, in conjunction with adjusting at least one parameter of a constraint based on the indication. Network claim 19 has also been amended to incorporate the subject matter of its previous dependent claim 20 (which has correspondingly been cancelled) that defines the propagation of the indication of operating condition at the first router to a second router, together with the further language of means for adjusting at least one parameter constraint to incoming traffic flow based on the indication.

It is respectfully submitted that neither Galand or Pashtan teach or suggest this combination of features now defined in each of the independent claims 1, 10 and 19. At the outset, it is noted that it is admitted in the Office Action that:

"Galand et al. is silent to disclosing propagating an indication of operating condition at first router to a second router."

It is also noted that the Office Action does not appear to address the limitation regarding adjusting at least one parameter of constraint based on the indication of the operating condition. With regard to this, it is respectfully submitted that neither Galand nor Pashtan at all suggest the combination of the features of determining the operating condition at the first router, propagating the indication of the operating condition to a second router and then adjusting a parameter of constraint of incoming traffic flow based on the indication. Therefore, reconsideration and allowance of the amended claims is respectfully requested.

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With regard to the Cox reference, noted at the outset of the rejection but not mentioned in the body of the rejection, Applicants respectfully note that the present amended claims also patentably define over this reference, whether considered alone or in combination with Galand and/or Pashtan. Accordingly, even if the Cox reference was intended in the rejection, it is respectfully submitted that this reference adds nothing to the above-noted shortcomings of Galand and Pashtan in meeting the present claimed invention. Therefore, reconsideration and allowance of the pending claims over Cox, Galand and Pashtan is respectfully requested.

Reconsideration and removal of the obviousness-type double patenting rejections of the claims set forth on pages 7-9 of the Office Action based on claims of U.S. Patent 6,647,412 is also respectfully requested. Although the Applicants respectfully submit that the features of the present amended claims patentably define over the features set forth of the claims of U.S. Patent 6,647,412, in order to expedite the allowance of the present application, Applicants are submitting herewith a Terminal Disclaimer to obviate this rejection. Accordingly, entry of this Terminal Disclaimer, and removal of the reference, is respectfully requested.

If the Examiner believes that there are any other points which may be clarified or otherwise disposed of either by telephone discussion or by personal interview, the Examiner is invited to contact Applicants' undersigned attorney at the number indicated below.

To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to the Antonelli, Terry, Stout & Kraus,

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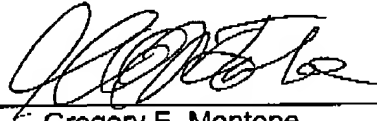
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LLP Deposit Account No. 01-2135 (Docket No. 0172.38192X00), and please credit
any excess fees to such deposit account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

By



Gregory E. Montone
Reg. No. 28,141

GEM/dlt

1300 North Seventeenth Street, Suite 1800
Arlington, Virginia 22209
Telephone: (703) 312-6600
Facsimile: (703) 312-6666